

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CONTEL GLOBAL MARKETING, INC.,

Plaintiff,

v.

ALDO PESCE COTERA, CLEAR RIVER
CORPORATION, NOVA AGENCIA
DeCARGA, S.A., and AGRICOLA
PUNTA ARENAS LIDA,

Defendants.

Civil Action No. 01-cv-0238 (SRC)(CLW)

OPINION

CHESLER, District Judge

This matter comes before the Court on Plaintiff Contel Global Marketing, Inc.’s (“Plaintiff”) motion for release of the parties’ funds on deposit with the Court. Defendants Aldo Pesce Cotera, Clear River Corporation, Nova Agencia DeCarga S.A., and Agricola Punta Arenas Lida’s (“Defendants”) have opposed the motion. The Court has considered the parties’ submissions and proceeds to rule without oral argument, pursuant to Federal Rule of Civil Procedure 78. For the reasons stated below, the Court will grant Plaintiff’s motion.

The Court’s December 18, 2006 Consent Order [Docket Entry 85] required Plaintiff and Defendants to arbitrate their dispute. The Order required Plaintiff and Defendants as a group to each post a cash bond in the amount of \$3 million for the purpose of satisfying an award issued by the arbitrator and confirmed by this Court. The parties agreed to each post \$3 million in cash with the Court instead of posting bonds. On July 24, 2015, this Court confirmed the arbitrator’s award to Plaintiff, but denied Plaintiff’s request to release the parties’ deposits until all appeals have been exhausted, at which point the Court stated it would entertain a renewed application for

the release of the bonds [Docket Entries 162-63]. On August 17, 2015, this Court entered Judgment in Plaintiff's favor for \$8,660,453.96 [Docket Entry 165]. Defendants filed a Notice of Appeal to the Third Circuit on August 19, 2015 [Docket Entry 166], and the Third Circuit docketed this appeal on August 24, 2015. Plaintiff filed a Notice of Cross-Appeal on August 24, 2015 [Docket Entry 167], and this appeal was docketed on August 28, 2015.

As Plaintiff has noted in its briefing, it was entitled to execute on the Judgment on August 31, 2015, unless Defendants either posted a supersedeas bond, pursuant to Federal Rule of Civil Procedure 62(d), or were granted a stay of execution of Judgment by this Court. Defendants have opted not to post a supersedeas bond as of this date, nor have they requested a stay. Plaintiff's motion appears to be a reasonable attempt to execute on the Judgment of this Court, and it is timely pursuant to Federal Rule of Civil Procedure 62(d). Since Defendants have not attempted to prevent execution of the Judgment, the Court finds that it would be just at this time to return Plaintiff's funds, and further finds that the Court should release Defendants' funds on deposit with this Court to Plaintiff, in partial execution of the Judgment.

For the foregoing reasons, the Court will grant Plaintiff's motion to release the funds on deposit with the Court. An appropriate Order will be filed.

s/ Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge

Dated: November 2, 2015